

REMARKS

Claims 3-9, 12-18, 21, 22, 25, 26, 37 and 38 remain in connection with the present application.

Allowed Claims

Applicants wish to thank the Examiner for the indication that claims 3-9, 12-18, 21, 22, 37 and 38 are allowed in connection with the present application.

Information Disclosure Statement

Applicants wish to thank the Examiner for the indication that the Information Disclosure Statement filed May 22, 2008 has been considered by the Examiner, including consideration of published U.S. Application 2002/0044115 and Japanese Publication JP 2002-116743.

Rejections Under 35 U.S.C. §101

Despite the fact that claims 25 and 26 were previously allowed, the Examiner has now rejected claims 25 and 26 under 35 U.S.C. §101. The Examiner alleges that the claims are not directed to statutory subject matter because a computer readable storage medium encoded with a program is allegedly non-statutory as being directed to a computer program per se. Applicants respectfully disagree with these assertions.

In a telephone interview conducted with the Examiner on December 11, 2007 and on December 14, 2007, the Examiner already acknowledged that computer readable storage medium claims, as set forth in claims 25 and 26, are statutory subject matter. The computer readable medium itself falls under the statutory category of an article of manufacture, which, when run on a computer causes the

computer to execute method steps. As set forth in MPEP 2106.01, when functional descriptive material is recorded on some computer readable medium, it becomes structurally and functionally integrated to the medium and will be statutory in most cases since the use of technology permits the function of the descriptive material to be realized.

As explained to the Examiner and as agreed upon in the interviews mentioned above, a computer readable storage medium encoded with a program which causes a computer to execute various method steps is clearly statutory, especially when the underlying method steps are statutory. As the method steps set forth in claim 25 are similar to those of allowable method claim 3, and as the method steps of claim 26 are similar to those of statutory method claim 6, then the claims of the computer readable medium itself should also be statutory. Accordingly, withdrawal of the Examiner's rejection under 35 U.S.C. §101 is respectfully requested.

Rejection Under 35 U.S.C. §112

The Examiner has further rejected claims 25 and 26 under 35 U.S.C. §112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim subject matter which Applicants regard as the invention. The Examiner alleges that it is unclear that claims 25 and 26 are apparatus or method claims. Again, Applicants respectfully traverse.

For the reasons set forth above, claims 25 and 26 are statutory computer readable storage medium claims, claims which fall under the statutory category of an article of manufacture. As set forth in MPEP 2106.01, the inclusion of functional descriptive material on some computer readable medium is considered statutory

subject matter. The claims are not indefinite as they are not directed to an apparatus or a method, but instead are directed to a statutory computer readable storage medium which, when executed on a computer, causes the computer to execute various method or program type steps. Again, withdrawal of the Examiner's rejection is respectfully requested.

Conclusion

Accordingly, in view of the above Amendments and remarks, reconsideration of the objections and rejections and allowance of each of the claims in connection with the present application is earnestly solicited.

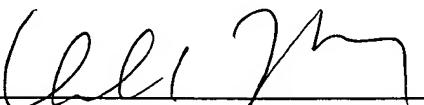
In the event this Response does not place the present application in condition for allowance, applicant requests the Examiner to contact the undersigned at (703) 668-8000 to schedule a personal interview.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Very truly yours,

HARNESS, DICKEY & PIERCE, PLC

By _____


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